

**SAGAMORE HILLS TOWNSHIP  
ZONING BOARD OF APPEALS MEETING**

**Wednesday, September 25, 2019– media notified**

The meeting was called to order by Vice Chair Mr. Christian Drago at 7:00 p.m.

Mr. Drago asked everyone in attendance to please silence all cell phones or pagers so that the meeting could be conducted without interruption, and thanked everyone in attendance for their cooperation.

All present recited the Pledge of Allegiance to the flag of the United States of America.

R/C: Wolske-present; Drago-present; DiGirolamo-present; Spangler-present.

Mr. Drago stated the first order of business was the election of officers for 2019.

Mr. Drago entertained a motion to appoint a Chairperson. Mr. DiGirolamo made a motion to nominate Mr. Drago as the Chair for 2019. Seconded by Mr. Spangler.

R/C Vote: all in favor, motion carried

Mr. Drago entertained a motion to appoint a Vice-Chairperson. Mr. Drago made a motion to nominate Mr. DiGirolamo as Vice-Chairperson. Seconded by Mr. Spangler.

R/C Vote: all in favor, motion carried

Mr. Drago stated the functions of the Board of Zoning Appeals.

The topic for the evening was an area variance applied for by Mitchel P. Petti of 8135 Sandstone Drive for a constructed fence. The constructed fence measures 8 ft. in height, which is higher than the maximum of 6 ft., and the appearance is that of the smooth side of the fence faces the interior of the property.

The two variances requested are as follows:

1. Section 3.8B of the Sagamore Hills Township Zoning Resolution states that “all other locations of non-living fencing shall not exceed six (6) feet above finished grade”.
2. The requested variance is a 2 ft. increase over the allotted six (6) feet.
3. Section 3.8C of the Sagamore Hills Township Zoning Resolution states that “the side of the fence facing adjacent property shall be the smooth finished side and all horizontal, diagonal or supporting members shall be on the owner’s side of the fence. The fence shall be harmonious and appropriate in appearance with existing character of the immediate area in which it is to be located.”
4. The requested variance is to have the smooth side of the fencing facing interior to the owner’s lot.

Mr. Drago requested anyone planning to speak on this matter to please stand for the "Oath for Participation".

Mr. Drago administered the Oath for Participation as follows: “I do swear and affirm that the information and testimony given as part of this proceeding is true and accurate to the best of my knowledge and belief.”

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Mr. Drago asked whether notices were sent out. Mrs. Taylor replied yes.

Mr. Drago asked whether there was correspondence received. Mrs. Taylor responded no correspondence was received.

Mr. Drago gave the floor to Mr. Petti to present why the board should grant a variance in this case.

Mr. Petti gave a brief history of his property. The northern end of his property abuts Sagamore Hills Park.

Mr. Petti stated since they moved into their home twelve years ago there has been an increase in park traffic, both in cars and people; dogs running through their yard; conflict with people trying to get their dogs out of their yard, swearing and people throwing rocks at them.

Mr. Petti wanted to restore privacy to his backyard so he built a privacy screen. Mr. Petti stated in his opinion this structure is not a fence, it is a privacy screen to keep people from seeing into his backyard and help with the noise. Mr. Petti provided some pictures.

Mr. Drago opened up the topic for public discussion.

There was a brief public discussion.

Mr. Drago asked for a motion from the board.

Mr. DiGirolamo made a motion to grant both variances. Mr. DiGirolamo stated the board is granting a variance under Section 3.8B of the Sagamore Hills Township Zoning Resolution in order for the fence to exceed 2 feet over the 6-foot maximum above finished grade. Also, grant a variance under Section 3.8C of the Sagamore Hills Township Zoning Resolution that the side of the fence facing the homeowner's property may be the smooth finished side as opposed to the rough side of the fencing that also has the pegs/posts. Seconded by Mr. Drago.

There was a discussion among the board members.

Mr. Snell gave a brief history of the park.

Mr. Drago asked whether there were any further comments/questions. There were no comments.

Mr. DiGirolamo read the following from Ohio Revised Code Section 519.14, subsection B. "The board has the right to authorize upon appeal in specific cases, such variance on terms of the zoning resolution as it will not be contrary to the public interest. The spirit of the zoning resolution must be observed and also substantial justice must be done. This gives very broad powers to the board to grant a variance that solves the problem but is not contrary to the public interest. The test is not the convenience of the homeowner or the desires or wishes of the homeowner. The phrase "undue hardship" refers to a condition that the homeowner could not avoid in connection with his conformity to the zoning resolution and where there is no other solution to the problem. If the homeowner creates a condition by his acquisition of additional personal property for his own convenience or additional vehicles and he has created a condition that was not contemplated in the zoning resolution this is not the basis for granting a variance."

Mr. DiGirolamo said this test is used at every board meeting. Mr. DiGirolamo stated the board is allowed to approve variances subject to conditions.

Mr. Drago called for a vote on the motion for the 2 ft. variance.

R/C Vote: Spangler-nay; DiGirolamo-nay; Drago-nay; Wolske-nay.

Mr. Drago called for a vote on the motion for the second variance regarding the smooth side of the fencing facing the homeowner.

R/C Vote: Spangler-nay; DiGirolamo-nay; Drago-nay; Wolske-nay.

Mr. Drago made a motion for a 2-foot height variance over the 6-foot requirement in the code, conditioned upon the homeowner's reversal of the side facing his property to the park, resulting in the smooth side facing the adjacent property in accordance with 3.8C. Seconded by Mr. Spangler.

R/C Vote: Wolske-aye; Drago-aye; DiGirolamo-aye; Spangler-aye.

Mr. Drago stated the motion carried. Variance is granted conditionally upon homeowner reverse facing the fence. The zoning inspector will follow up to make sure this occurs.

Mr. Petti thanked the board.

Mr. Snell stated that Mr. Petti cannot expand his privacy fence. If he wants to expand it, he must come back to the board of zoning appeals.

Mr. DiGirolamo made a motion to approve the minutes from the June 27, 2018 meeting. Seconded by Mr. Drago. R/C Vote: Drago-aye; DiGirolamo-aye; Spangler-aye.

Mr. Drago asked whether there was any further business. There was no further business.

Mr. DiGirolamo made a motion to adjourn at 7:53 p.m. Seconded by Mr. Spangler.  
R/C Vote: all in favor.